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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation and Petition to
Revoke Probation Against:

Case No. R-2079

CHELSEA M. PONDER
3141 Lamar Springs Court
Spring Valley, CA 91977

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

Respiratory Care Practitioner License No. 26048

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation and Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about March 27, 2007, the Respiratory Care Board issued Respiratory Care Practitioner License No. 26048 to CHELSEA M. PONDER (Respondent). The Respiratory Care Practitioner License was in effect at all times relevant to the charges brought herein and will expire on March 31, 2008, unless renewed.

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3. In a disciplinary action entitled "In the Matter of the Statement of Issues Against Chelsea M. Ponders," Case No. S-369, the Respiratory Care Board issued a decision, effective March 27, 2007, in which respondent was given a conditional license to practice respiratory care. Respondent's conditional license was placed on probation for a period of three (3) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

JURISDICTION

4. This Accusation and Petition to Revoke Probation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 3710 of the Code states: “The Respiratory Care Board of

indicated.

5. Section 3710 of the Code states: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

6. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

7. Section 3750.5 of the Code states:

"In addition to any other grounds specified in this chapter, the board may deny, suspend, or revoke the license of any applicant or license holder who has done any of the following:

"(a) Obtained or possessed in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administered to himself or herself, or furnished or administered to another, any controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with section 4015) of Chapter 9.

"(b) Used any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with section 4015) of Chapter 9.

“ ”

1 stated:

2 “Respondent shall completely abstain from the possession or use of
3 alcohol, controlled substances, dangerous drugs, and any and all other mood
4 altering drugs, substances, and their associated paraphernalia, except when the
5 drugs are lawfully prescribed by a licensed practitioner as part of a documented
6 medical treatment.

7 “Respondent shall execute a release authorizing the release of pharmacy
8 and prescribing records as well as physical and mental health records.
9 Respondent shall also provide information of treating physicians, counselors or
10 any other treating professionals as requested by the Board.

11 “Respondent shall ensure that she is not in the presence of or in the same
12 physical location as individuals who are using illegal substances, even if
13 Respondent is not personally ingesting the drug(s).

14 “Any positive result that registers over the established laboratory cutoff
15 level shall constitute a violation of probation and shall result in the filing of an
16 accusation and/or a petition to revoke probation against Respondent's respiratory
17 care practitioner license.

18 “Respondent also understands and agrees that any positive result that
19 registers over the established laboratory cutoff level shall be reported to each of
20 Respondent's employers.”

21 13. At all times after the effective date of Respondent’s probation, Condition 5
22 stated:

23 “Respondent shall obey all laws, whether federal, state, or local.
24 Respondent shall also obey all regulations governing the practice of respiratory
25 care in California.”

26 14. Respondent’s Respiratory Care Practitioner License No. 26048, is subjected
27 to discipline under Code sections 3705.5, subdivisions (a) and (b), and her probation is subject to
28 revocation because she failed to comply with Probation Conditions 3 and 5, as more particularly

1 alleged hereinafter:

2 (a) On or about April 13, 2007, respondent submitted a sample for testing and
3 analysis as required.

4 (b) On or about April 19, 2007, the Board received a report from Compass
5 Vision Inc., which revealed a positive result of cannabinoids [Marijuana], a Schedule I controlled
6 substance pursuant to Health and Safety Code section 11054, subdivision (d)(13).

7 **SECOND CAUSE TO REVOKE OF PROBATION**

8 **(Probation Monitoring Program)**

9 15. At all times after the effective date of respondent's probation, Condition 7,
10 stated:

11 "Respondent shall comply with requirements of the Board appointed
12 probation monitoring program, and shall, upon reasonable request, report to or
13 appear to a local venue as directed.

14 "Respondent shall claim all certified mail issued by the Board, respond to
15 all notices of reasonable requests timely, and submit Annual Reports, Identification
16 Update reports or other reports similar in nature, as requested and directed by the
17 Board or its representative.

18 "Respondent is encouraged to contact the Board's Probation Program at
19 any time she has a question or concern regarding her terms and conditions or
20 probation.

21 "Failure to appear for any scheduled meeting or examination, or cooperate
22 with the requirements of the program, including timely submission of requested
23 information, shall constitute a violation of probation and will result in the filing of
24 an accusation and/or a petition to revoke probation against Respondent's
25 respiratory care practitioner license."

26 16. As part of respondent's probation, she was required to call Compass
27 Vision, Inc.'s automated system each day to determine if she was selected to provide a specimen
28 for testing and analysis.

1 17. Respondent's probation is subject to revocation because she failed to call
2 Compass Vision, Inc.'s automated system to determine if she was selected to provide a specimen
3 for testing and analysis on each of the following dates: April 15, 25, 26, 27, 28, 29, 30, and May 1
4 through May 25, 2007.

5 **THIRD CAUSE TO REVOKE PROBATION**

6 **(Probation Monitoring Costs)**

7 18. At all times after the effective date of respondent's probation, Condition 8,
8 stated:

9 "All costs incurred for probation monitoring during the entire probation
10 shall be paid by the Respondent. The monthly cost may be adjusted as expenses
11 are reduced or increased. Respondent's failure to comply with all terms and
12 conditions may also cause this amount to be increased.

13 "All payments for costs are to be sent directly to the Respiratory Care
14 Board and must be received by the date(s) specified. (Periods of tolling will not
15 toll the probation monitoring costs incurred.)

16 "If Respondent is unable to submit costs for any month, she shall be
17 required instead to submit an explanation of why she is unable to submit the costs,
18 and the date(s) she will be able to submit the costs including payment amount(s).
19 Supporting documentation and evidence of why the Respondent is unable to make
20 such payment(s) must accompany this submission.

21 "Respondent understands that failure to submit costs timely is a violation of
22 probation and submission of evidence demonstrating financial hardship does not
23 preclude the Board from pursuing further disciplinary action. However,
24 Respondent understands providing evidence and supporting documentation of
25 financial hardship may delay further disciplinary action.

26 "In addition to any other disciplinary action taken by the Board, an
27 unrestricted license will not be issued at the end of the probationary period and the
28 respiratory care practitioner license will not be renewed, until such time all

probation monitoring costs have been paid.

“The filing of bankruptcy by Respondent shall not relieve the Respondent of her responsibility to reimburse the Board for costs incurred.”

19. Respondent's probation is subject to revocation because she failed to comply with Probation Condition 8, referenced above. The facts and circumstances regarding this violation are as follows: Respondent failed to pay her \$100 monthly probation monitoring cost and is in arrears \$100.00.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Revoking the probation that was granted by the Respiratory Care Board of California in Case No. S-369 and imposing the disciplinary order that was stayed thereby revoking Respiratory Care Practitioner License No. 26048 issued to CHELSEA M. PONDER;

2. Revoking or suspending Respiratory Care Practitioner License No. 26048,
issued to CHELSEA M. PONDERS;

3. Ordering Chelsea M. Ponders to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if probation is continued or extended, the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: May 31, 2007

Original signed by Liane Zimmerman for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
State of California
Complainant